

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)	
on its own motion)	
)	Docket No. 01-0705
Northern Illinois Gas Company d/b/a NICOR)	
Gas Company)	
)	
Reconciliation of Revenues collected under)	
Gas Adjustment Charges with Actual Costs)	
prudently incurred)	
)	
Illinois Commerce Commission)	
on its own motion)	
)	Docket No. 02-0067
Northern Illinois Gas Company d/b/a NICOR)	
Gas Company)	
)	
Proceeding to review Rider 4, Gas Cost, pursuant)	
to Section 9-244(c) of the Public Utilities Act)	
)	
Illinois Commerce Commission)	
on its own motion)	
)	Docket No. 02-0725
Northern Illinois Gas Company d/b/a NICOR)	
Gas Company)	
)	
Reconciliation of Revenues collected under)	
Gas Adjustment Charges with Actual Costs)	
prudently incurred)	

**MOTION TO STRIKE PORTIONS OF
PRE-FILED TESTIMONY OF DAVID EFFRON**

Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas” or the “Company”), through its undersigned counsel, hereby moves the Administrative Law Judges (the “ALJs”) pursuant to Sections 200.190 and 200.680 of the Commission’s Rules of Practice, 83 Ill. Admin. Code §§ 200.190 and 200.680, for a ruling striking portions of the pre-filed direct and rebuttal testimony of the People of the State of Illinois (hereinafter “AG”) witness David Effron.

Striking inadmissible portions of Mr. Effron’s written pre-filed testimony prior to hearing will facilitate the efficiency of the evidentiary process by limiting the need for oral objections at hearing and will help preserve the integrity of the evidentiary record in this matter. In support of this Motion, Nicor Gas identifies below those portions of Mr. Effron’s pre-filed testimony which the Company asserts are inadmissible in evidence and the bases for its objections.¹

	<u>Testimony</u>	<u>Objections</u>
1.	Effron Direct, AG Ex. 1.0, page 4, lines 2-13.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
2.	Effron Direct, AG Ex. 1.0, page 5, lines 1-6.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
3.	Effron Direct, AG Ex. 1.0, page 7, lines 8-9.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice

¹ The Company expressly reserved the right to make any and all appropriate objections to evidence offered at hearing. Additionally, the Company previously has moved for a ruling limiting the use of direct quotations from the discovery depositions in this matter in Staff’s and other parties’ pre-filed testimony, including Mr. Effron’s pre-filed testimony. That motion is pending before the ALJs, and the Company’s previously stated objections to Mr. Effron’s use of quotations from the discovery depositions in his direct and rebuttal testimony are incorporated and not restated in this Motion.

	<u>Testimony</u>	<u>Objections</u>
4.	Effron Direct, AG Ex. 1.0, page 8, lines 13-19.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
5.	Effron Direct, AG Ex. 1.0, page 11, lines 1-22, page 12, lines 1-23, page 13, lines 1-20, FN. 3, page 14, lines 1-21, FN. 4, page 15 lines 1-22, page 16, lines 1-15, except line 10 and First word of line 11.	<ul style="list-style-type: none"> • Relevance (Irrelevant to Adjustments Sponsored by Witness) • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice • Cumulative
6.	Effron Direct, AG Ex. 1.0, page 19, lines 18-22, page 20, lines 1-2.	<ul style="list-style-type: none"> • Relevance (Irrelevant to Adjustments Sponsored by Witness) • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
7.	Effron Direct, AG Ex. 1.0, page 21, lines 17-21, page 22, lines 1-10.	<ul style="list-style-type: none"> • Relevance (Irrelevant to Issues Presented for Resolution) • Relevance (Irrelevant to Adjustments Sponsored by Witness)
8.	Effron Direct, AG Ex. 1.0, page 22, lines 15-19.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice

	<u>Testimony</u>	<u>Objections</u>
9.	Effron Direct, AG Ex. 1.0, page 23, lines 2-3.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
10.	Effron Direct, AG Ex. 1.0, page 26, line 22, page 27, lines 1-10, FN 9.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
11.	Effron Direct, AG Ex. 1.0, page 27, lines 17-23, page 28, lines 1-20, FN 10.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
12.	Effron Direct, AG Ex. 1.0, page 30, lines 3-6.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
13.	Effron Direct, AG Ex. 1.0, page 34, lines 9-18.	<ul style="list-style-type: none"> • Relevance (Irrelevant to Issues Presented for Resolution) • Relevance (Irrelevant to Adjustments Sponsored by Witness) • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice

	<u>Testimony</u>	<u>Objections</u>
14.	Effron Direct, AG Ex. 1.0, page 34, lines 20-22, page 35, lines 1-14.	<ul style="list-style-type: none"> • Relevance (Irrelevant to Adjustments Sponsored by Witness) • Incompetent (Outside Scope of Permissible Expert Testimony) • Hearsay • Foundation • Prejudice •
15.	Effron Direct, AG Ex. 1.0, page 35, lines 16-21, FN. 15.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Foundation • Prejudice
16.	Effron Direct, AG Ex. 1.0, page 36, lines 12-14, page 37, lines 3-4, 7-9.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
17.	Effron Rebuttal, AG Ex. 1.1, page 2, lines 4-9.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
18.	Effron Rebuttal, AG Ex. 1.1, page 3, lines 1-8.	<ul style="list-style-type: none"> • Misleading (Statements taken out of context) • Prejudice

	<u>Testimony</u>	<u>Objections</u>
19.	Effron Rebuttal, AG Ex. 1.1, page 4, lines 3-14.	<ul style="list-style-type: none"> • Relevance (Irrelevant to Issues Presented for Resolution) • Incompetent (Outside Scope of Permissible Testimony) • Incompetent (Speculation) • Foundation • Misleading (Statements taken out of context) • Prejudice
20.	Effron Rebuttal, AG Ex. 1.1, page 8, lines 3-7.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
21.	Effron Rebuttal, AG Ex. 1.1, page 10, lines 5-14.	<ul style="list-style-type: none"> • Relevance (Irrelevant to Issues Presented for Resolution) • Relevance (Irrelevant to Adjustments Sponsored by Witness) • Incompetent (Outside Scope of Permissible Expert Testimony) • Foundation • Prejudice
22.	Effron Rebuttal, AG Ex. 1.1, page 11, lines 8-10.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
23.	Effron Rebuttal, AG Ex. 1.1, page 11, lines 21-23, page 12, lines 1-2.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Testimony) • Incompetent (Speculation) • Foundation • Prejudice

	<u>Testimony</u>	<u>Objections</u>
24.	Effron Rebuttal, AG Ex. 1.1, page 12, lines 18-23, page 13, lines 1-3.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Testimony) • Incompetent (Speculation) • Foundation • Prejudice
25.	Effron Rebuttal, AG Ex. 1.1, page 13, lines 16-21.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Testimony) • Incompetent (Speculation) • Foundation • Misleading (Statements taken out of context) • Prejudice
26.	Effron Rebuttal, AG Ex. 1.1, page 14, lines 1-3, 14-16, FN 4, 19-22.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
27.	Effron Rebuttal, AG Ex. 1.1, page 15, lines 14-23, page 16, lines 1-8.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Misleading (Statements taken out of context) • Prejudice
28.	Effron Rebuttal, AG Ex. 1.1, page 16, lines 14-22, page 17, lines 1-2.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice

	<u>Testimony</u>	<u>Objections</u>
29.	Effron Rebuttal, AG Ex. 1.1, page 18, lines 10-16.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
30.	Effron Rebuttal, AG Ex. 1.1, page 19, lines 1-22, FN. 6.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice •
31.	Effron Rebuttal, AG Ex. 1.1, page 20, lines 7-20.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice
32.	Effron Rebuttal, AG Ex. 1.1, page 21, lines 10-12, 19-23, page 22, lines 1-3.	<ul style="list-style-type: none"> • Incompetent (Outside Scope of Permissible Expert Testimony) • Incompetent (Speculation) • Foundation • Prejudice

For purposes of clarity and convenience, Nicor Gas has attached to this Motion those pages of Mr. Effron's pre-filed testimony that contain testimony which the Company asserts should be stricken and highlighted the specific testimony challenged.

WHEREFORE, for these reasons, Nicor Gas respectfully requests that the Administrative Law Judges provide a ruling striking those portions of Mr. Effron's pre-filed testimony identified in this Motion, requiring the AG to re-file Mr. Effron's testimony to reflect the Administrative

Law Judges' rulings no later than April 12, 2004, and granting such other relief as is just and appropriate.

Dated: March 24, 2004

Respectfully submitted,

NORTHERN ILLINOIS GAS COMPANY
D/B/A NICOR GAS COMPANY

By: _____
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CERTIFICATE OF SERVICE

I, Thomas A. Andreoli, hereby certify that I served a copy of Northern Illinois Gas Company d/b/a Nicor Gas' Motion to Strike Portions of Pre-Filed Testimony of David Effron upon the service list in consolidated Docket Nos. 01-0705/02-0067/02-0725 by email on March 24, 2004.

Thomas A. Andreoli